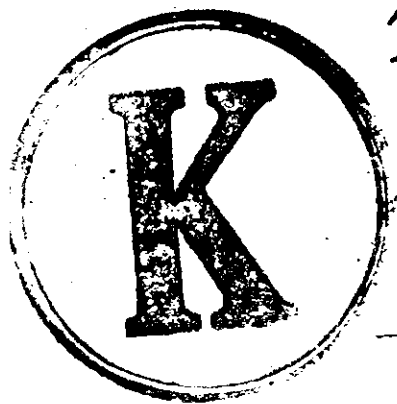




1952.

File No. Land Improve

Legal Deptt.

II/52
(R)

B BRANCH

Subject:— Rules under the
Land Improvement Schemes
Act 1942

2/1/52

Land Improvement II/52
(R)

File No.

Gen. 194 e.

612-

Legal Department.

The soil Conservation Officer, B.S., Poona, states that when the State Government directs the preparation of a land improvement scheme under section 25(1) of the Bombay Land Improvement Schemes Act, 1942 in an area in which a State of famine or scarcity prevails or likely to prevail it is not possible to execute the scheme expeditiously as under section 5(2) of the Act the scheme has to be first published in the Official Gazette in the manner prescribed therein for the purpose of calling for objections from the persons affected by the scheme and again the same has to be published for the second time under section 9(2) of the Act in the Official Gazette after it is finally sanctioned after considering objection thereto. The proposal however, of the Soil Conservation Officer, Bombay State, Poona, as endorsed by the Director of Agriculture to dispense with the publication under sub-section (2) of section 5 of the Act to save time is not legally feasible. Sub-section (3) of section 25 of the Act provides that after the scheme is submitted to the State Government or a Board for approval under sub-section (2), the provisions of sections 5 to 23 and the rules made under section 24 shall, so far as they can be made applicable apply in respect of such scheme. The provisions of the said sub-section (3) ^{are} mandatory in character and have to be complied with. It is true that sections 5 to 23 shall apply ~~in~~ so far as can be made applicable, but it cannot be said in the case under consideration that it is impracticable that provisions of section 5(2) cannot be applied to the scheme directed to be prepared under section 25(1) even though such procedure may result in a great inconvenience in a particular class of cases. No advantage therefore, can be taken from the words "so far as they can be made applicable" used in sub-section (3) of section 25 of the Act to dispense with the provisions of section 5(2) of the Act. The procedure prescribed by the Act being mandatory will

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have to be followed in the case of a scheme directed to be prepared under section 25(1) and no departure therefrom in the manner suggested by the Director of Agriculture is legally feasible.

Id/-B.P.D. 18/7
Additional Deputy Secretary to Government.

U.R. to A. & F.D. No. 11925 dated the 19th July 1952.

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